

REMARKS

Claims 90-100 are pending, with claims 90 and 93 being independent. Applicants have amended claims 90 and 93 and added dependent claims 94-100.

Applicants thank the Examiner for the telephone interview that took place on November 29, 2006. The substance of the interview is described below.

The drawings stand objected to under 37 C.F.R. § 1.83(a). The Examiner has indicated that the Replacement Sheet of Fig. 5 filed May 1, 2006 satisfies the objection.

Claim 93 stands rejected under 35 U.S.C. § 102(e) as being anticipated by Swanson (6,162,184). Claims 90-91 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Swanson.

As discussed, Swanson does not describe or suggest a method of delivering energy to contract tissue. As suggested by the Examiner, Applicants have amended the preamble of claims 90 and 93 to clarify this distinction. For at least this reason, Applicants request withdrawal of the rejection of independent claims 90 and 93, and their dependent claims 91 and 92.

Because new claims 94-100 depend on independent claims 90 and 93, respectively, Applicants respectfully assert that claims 94-100 are allowable.

Applicants do not acquiesce to the characterizations of the art. For brevity and to advance prosecution, however, Applicants may have not addressed all characterizations of the art, but reserve the right to do so in further prosecution of this or a subsequent application.

The absence of an explicit response by the applicant to any of the examiner's positions does not constitute a concession of the examiner's positions. The fact that applicant's comments have focused on particular arguments does not constitute a concession that there are not other good arguments for patentability of the claims. All of the dependent claims are patentable for at least the reasons given with respect to the claims on which they depend.

Applicant : Hugh Sharkey et al.
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Applicant asks that all claims be allowed.

Pursuant to 37 C.F.R. §1.136, Applicants hereby petition that the period for response to the action dated August 14, 2006, be extended for one month to and including December 14, 2006.

The fee in the amount of \$120.00 for the one-month extension of time is being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization. Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: 12/11/06

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